

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PACIFIC INDEMNITY COMPANY, : CIVIL ACTION NO.
Plaintiff, : 04-11975(RWZ)
v. :
ALFRED KEMP, Individually and d/b/a : **AFFIDAVIT OF**
KEMP PLUMBING : **DANIEL Q. HARRINGTON IN**
and : **OPPOSITION TO DEFENDANT**
MARTIN SANDBORG, Individually and d/b/a : **KEMP'S MOTION IN LIMINE**
SANDBORG PLUMBING AND HEATING, : **TO PRECLUDE TESTIMONY**
Defendants. : **FROM PLAINTIFF'S EXPERT**
: **THOMAS KLEM AS TO LOCATION**
: **OF COLD WATER VALVE BEING**
: **UNDER TARP UNDER KITCHEN**
: **SINK POST-FIRE DUE TO**
: **SPOLIATION OF EVIDENCE**
:

Daniel Q. Harrington, being first duly sworn, states as follows:

1. I am an attorney duly admitted to practice law in Pennsylvania, New Jersey, New York and Minnesota, and in numerous federal courts, and have been admitted to appear *pro hac vice* for the plaintiff in this matter.
2. Attached are copies of photographs taken by Mr. Klem showing that the cold water valve assembly from beneath the kitchen sink of the carriage house was not in place on the piping at the time of his original inspection. These photographs are marked as Plaintiff's Trial Exhibits 2Z and 2AA through 2EE. Defendants have stipulated to the admissibility of Exhibits 2Z and 2AA through 2CC, but not 2DD and 2EE.
3. Mr. Klem will testify that Stipulated Exhibit 2Z shows the cold water assembly in its "as found" location.
4. As noted in his report, Mr. Klem made the photographs showing that the cold water valve was not in place available to defendants' investigators and liability adjusters prior to the first of defendants' multiple inspections of the premises.

5. This Affidavit is being submitted in Opposition to Defendant Kemp's "Motion In Limine To Preclude Testimony Of Thomas Klem As To Location Of Cold Water Valve Being Under Tarp Under Kitchen Sink Post-Fire Due To Spoliation Of Evidence."



DANIEL Q. HARRINGTON

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 23 DAY

OF MARCH, 2007.



NOTARIAL SEAL
AGNES ZANE
Notary Public
13053631V 132682000
PHILADELPHIA CITY, PHILADELPHIA COUNTY
My Commission Expires Sep 6, 2008



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PLAINTIFF'S
EXHIBIT
2-2



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PLAINTIFF'S
EXHIBIT
2xx

MR 1-15A



MR-124

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**PLAINTIFF'S
EXHIBIT**
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PLAINTIFF'S
EXHIBIT
2cc

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PLAINTIFF'S
EXHIBIT

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